

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





*Original with affidavit of mailing*  
76-1004

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P/S

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 76-1004

UNITED STATES OF AMERICA,

Appellee,

-against-

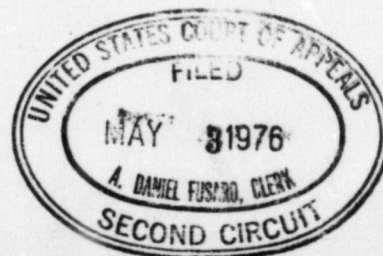
LAWRENCE ALFANO,

Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

GOVERNMENT'S APPENDIX

DAVID G. TRAGER  
United States Attorney,  
Eastern District of New York



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Argondizzo-direct

Q Can you tell the Court and jury where you first saw those exhibits to the best of your recollection?

A I purchased them from a person to give to Mr. Alfano, to fly.

Q When you say you purchased them, what do you mean?

A I bought them through a man who said he had a travel agency.

Q Do you recall his name?

A His name was Charlie.

Q Do you recall the name of the travel agency?

A No, I don't.

Q How much did you pay for those tickets, if you recall?

A I don't remember the exact amount of each ticket, but it was like twenty-five percent -- the man said they were executive tickets.

Q When you say "the man," whom do you mean?

A The person I purchased them from.

Q When you first saw those tickets, did they have all of the entries with respect to the names, the flight numbers, the validation stamps, on them?

A Yes, sir.

Q Directing your attention to each one of those

Argondizzo-direct

exhibits, 1 through 5, individually, can you tell the Court and jury to whom you delivered each one of those?

A These tickets, who I gave them to?

Q Well, who did you give Exhibit 1 to?

A Mr. Alfano.

Q Who did you give Exhibit 2 to?

A Mr. Alfano.

Q To whom did you give Exhibit No. 3?

A I gave all of them to Mr. Alfano.

Q All to Mr. Alfano?

A Yes.

Q How long have you known Mr. Alfano?

A About three years.

Q When you gave those tickets to Mr. Alfano, did you say anything to him or did he say anything to you?

A I don't--

Q Pardon?

A I don't understand what you mean, sir.

Q Did you have a conversation with him?

A You mean on the tickets?

Q Yes.

A Yes.

Q Could you repeat for the Court and jury what that conversation was?



Argondizzo-direct

MR. CUNNINGHAM: Objection, to any conversation as to the defendant as being hearsay.

THE COURT: It relates to his knowledge, and I think it has a bearing on the case. I'll overrule the objection.

MR. ROSNER: We would consent to a limiting instruction. His testimony is offered not to prove the truth of what was said between the parties, but to prove that it was said.

THE COURT: It's received as bearing on the knowledge that Mr. Alfano may have had at the time that he bought these tickets.

Q Would you repeat the conversation for the Court and jury, please.

A I don't understand exactly, you know, what was said, because it was like two years ago.

Q Give your best recollection.

A I told him at the time I gave him his tickets, I heard him saying that he wanted to go to Florida. I told him I knew a person that had a travel agency and I called him up. The guy came down, gave the tickets, told us they were executive tickets from the airport, the airport was putting out a promotion and they could give us twenty-five percent off the tickets.

Argondizzo-direct

1  
2 Q Did you receive any money from Mr. Alfano  
3 when you gave him those tickets?

4 A He paid me.

5 Q How much did he pay you?

6 A I don't remember, sir, whatever the amount was  
7 at the time.

8 Q You say whatever the amount was. Tickets,  
9 Exhibits No. 1 and 2, say \$170 and change. Is that what  
10 Mr. Alfano gave you?

11 A Twenty-five percent less.

12 Q Then yow about Exhibit 3, 4 and 5?

13 A Same thing.

14 Q Same thing?

15 A Yes.

16 Q I ask you to look at Exhibits 3, 4 and 5 and  
17 ask you if you know anybody whose name appears on those  
18 tickets.

19 A I met the person, was a friend of Mr. Alfano's.

20 Q Who was that, sir?

21 A A man named Steve Maltese.

22 Q Do you know a gentleman named Dannie or Daniel  
23 Kilgallon?

24 A Yes, I met him once.

25 Q Can you tell us where and when you met him?



PAGINATION AS IN ORIGINAL COPY

Argondizzo-cross

Q Yes, sir.

Q That's basically what you testified about this morning; isn't that right, sir?

A Yes, sir.

Q Do you remember when you testified before the grand jury?

A No, sir.

Q Would it refresh your recollection if I told you you testified before the grand jury on February 21, 1974?

A Yes, sir.

MR. CUNNINGHAM: Might I have this marked as a Government exhibit, please.

THE CLERK: Transcript marked Government Exhibit 27 for identification.

(So marked)

THE WITNESS: Might I ask you a question?

THE COURT: Yes.

THE WITNESS: If I wanted not to say any more, have counsel present, can I do so?

THE COURT: Yes, you may.

Q Isn't it true, sir, after February 21, 1974, you later voluntarily appeared at the offices of the Federal Bureau of Investigation on August 22 of 1974, some six months later?



Argondizzo-cross

1  
2 A I refuse to answer.

3 Q Excuse me?

4 THE COURT: The witness asked me whether he  
5 could request the presence of counsel before he  
6 answers further questions. He has that right since  
7 there may be a possibility -- he has a right not to  
8 answer for an answer that may tend to incriminate  
9 him.

10 THE WITNESS: Yes, sir.

11 THE COURT: Let me ask you, have you been  
12 represented by counsel?

13 THE WITNESS: No, sir.

14 THE COURT: We'll have to take a shor recess.  
15 The jury is to go back to the jury room.  
16 Please do not talk about the case.

17 (The jury leaves the courtroom.)

18 THE COURT: I don't know whether you're  
19 eliginle for Legal Aid or whether you want to hire  
20 an attorney for your own.

21 THE WITNESS: I need Legal Aid, your Honor.

22 THE COURT: You're under oath still.

23 Let me ask you these questions.

24 BY THE COURT:

25 Q Are you employed?

## Argondizzo-cross

1  
2 A No, sir, I just got out of jail.

3 Q Do you have any money?

4 A No, your Honor.

5 Q Do you own any property?

6 A No, sir.

7 Q Do you want a lawyer before you answer any  
8 further questions?

9 A Yes, sir.

10 THE COURT: Will you call Legal Aid to see  
11 if they can get somebody over here right away.

12 THE CLERK: Yes, your Honor.

13 THE COURT: We can't put outside calls from  
14 the courtroom. If there's somebody in the building,  
15 somebody might come up soon. If not, we may have to  
16 have a longer time. Just wait here until we get  
17 a report from Mr. Giokas.

18 MR. CUNNINGHAM: In response to the questions  
19 you just asked the defendant, as to his financial  
20 resources, could you possibly also ask the defendant  
21 whether or not his wife opened up a clothing store  
22 in Howard Beach, Long Island.

23 THE WITNESS: No, sir, she does not own the  
24 clothing store, she works for somebody.

25 THE CLERK: Somebody is on the way over.



Argondizzo-cross

Mr. Cunningham, please restrict your questions within the lines I have set and we'll see what the witness has to say.

CONTINUED CROSS EXAMINATION

BY MR. CUNNINGHAM:

Q Sir, do you know a man by the name of Steve the Hawk?

A Yes, I do.

Q Please keep your voice up. Did you answer yes or no to that question?

THE WITNESS: Your Honor, I feel I don't want to answer any more questions, your Honor.

I thought it over. I feel as though it's incriminating me. I feel very upset over it, no disrespect, but I just don't want to answer any more questions.

THE COURT: I told you this morning that I would protect you on a certain range of questions but not on questions that relate to your testimony on direct examination this morning. I think Mr. -- while you didn't testify about Steve the Hawk this morning, you mentioned Steve Maltese. I think Mr. Cunningham is trying to identify him.

MR. CUNNINGHAM: That's correct, your Honor.

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25

THE COURT: Whether he's one or the other.

I would order that you answer it.

A Yes, I do.

Q Did you ever purchase any airline tickets from him?

THE WITNESS: I declare the Fifth on that, your Honor. I won't answer any more questions.

THE COURT: I'll sustain that objection.

MR. CUNNINGHAM: Might I rephrase the question, your Honor?

THE COURT: Yes.

Q Did you and Mr. Alfano ever purchase any airline tickets from him?

THE COURT: This relates to your dealings with Mr. Alfano about which you did testify this morning. I'm directing you to answer that.

THE WITNESS: I know that, your Honor.

MR. ROSEN: Might I ask Mr. Cunningham to rephrase the question, then.

THE COURT: You might restrict it to Mr. Alfano's actions, under those circumstances, Mr. Cunningham.

Q Did you, Mr. Argondizzo, did you and Mr. Alfano have an arrangement with Steve the clerk to buy



Argondizzo-cross

airline tickets from him and then subsequently sell them?

THE COURT: That you should answer.

THE WITNESS: Your Honor, I just don't want to answer any more questions.

THE COURT: Just for the record, I direct you to answer it.

THE WITNESS: No disrespect against you, your Honor, I don't want to answer any more questions.

THE COURT: Do you want to answer any more questions?

THE WITNESS: No questions, your Honor.

THE COURT: I don't think you should ask any more questions in the presence of the jury then.

Mr. Rosner, have you any questions you want to put on redirect?

MR. ROSNER: I will be very brief, your Honor, if I may, from here (indicating).

THE COURT: Yes.

MR. ROSNER: I couldn't hear the witness's answers to the last two or three questions. I hope it's not repetitious.

Varisco-direct

1  
2 A I don't trust anybody with my money.

3 Q Did you think there might be something wrong  
4 with these tickets?

5 A I didn't trust Wally that much to give him  
6 my \$400.

7 Q Why didn't you trust Wally? You had a charge  
8 account in the store.

9 A That I paid for. I mean I paid the charge.  
10 just to give him \$400 and he tells me, you know, the guy  
11 went out of business or he didn't have any more tickets,  
12 you know, something, I don't know.

13 Q You were afraid of being ripped off by Wally;  
14 is that correct?

15 A I guess you could put it that way.

16 Q In other words, would it be fair to say Wally  
17 did not enjoy your complete faith and trust?

18 A I don't trust anybody completely when it comes  
19 to money.

20 Q I believe you said on direct examination  
21 that you recognize this transcript as being the transcript  
22 of a telephone conversation that you had with Mr. Alfano  
23 approximately in August of 1973.

24 A Yes.

25 Q When was the last time you had seen that



## Varisco-cross

1  
2 A I don't know what it was about, it was just  
3 said like that, you know, that that's why Mike wouldn't  
4 give him the tickets.

5 Q Because of the poor relationship between  
6 Mr. Alfano and Mr--

7 A No, between Wally and Mike.

8 Q Wally and Mike.

9 Wally was selling tickets, right, out of  
10 his clothing store?

11 A Yes, he was-- I don't know about to anybody  
12 else, I mean. He approached me with them.

13 Q He was getting the tickets from Mike; is  
14 that right?

15 A That's what he told me.

16 Q Apparently Larry was getting these tickets  
17 from Mike also?

18 A That's the way I understood.

19 Q You could have bought these tickets then  
20 from any one of these three people?

21 A I didn't know Mike and I didn't know that  
22 Larry had tickets.

23 Q Did you know that Larry was selling tickets  
24 to anybody else?

25 A Only when he told me on the phone.

Varisco-cross

1  
2 tickets the day before rather than giving them to you in  
3 advance?

4 A I don't know.

5 Q What was Mr. Alfano leery about on these tic-  
6 kets?

7 A I don't know.

8 Q Is Larry getting a cut on these tickets,  
9 making money on these tickets?

10 A Not that I know of.

11 Q What did Larry mean over there about seven  
12 lines up, where it says,

13 "Larry: Well, you're getting them through  
14 Mikey, you're getting them through Mikey, so leave--  
15 the price gotta stay the same.

16 "June: All right.

17 "Larry: I can't cut his price. You know  
18 what I mean?

19 "June: Yeah.

20 "Larry: That I can't do."

21 A From the way I understand it, Wally was, you  
22 know, making something on the tickets, I guess he tacked  
23 on something for himself. I don't really know how Wally  
24 and Mike had it worked out, but Larry had told me, you know,  
25 we had had the conversation in the bar that he probably



## Varisco-redirect

1  
2 A That's when I had -- when Larry had come down  
3 the following day to see Vinnie. That was the owner of  
4 Mr. Lucky's.

5 MR. CUNNINGHAM: I'm going to object.  
6 This is going to be hearsay.

7 THE COURT: It's a continuation of a con-  
8 versation that was discussed. I'll listen to it.

9 MR. CUNNINGHAM: I believe it's a brand  
10 new conversation that took part before the tele-  
11 phone conversation.

12 THE COURT: This is the one you asked about,  
13 as I understand.

14 MR. ROSNER: You asked on cross.

15 A Larry had come down to see Vinnie, the owner  
16 of Mr. Lucky's one day. When he was there I told him --  
17 we were talking about, you know, my trip and I had brought  
18 up the ticket to him. I told him I was getting tickets  
19 through a travel agency, discount tickets. So Larry said  
20 to me, "executive discount tickets?"

21 I said, "I don't know. I guess so. I just  
22 know they're tickets that the travel agency gets, you know,  
23 for them to fly on."

24 So he says to me, "No, don't cash it in if  
25 anybody goes." He says--

Scinta-direct

F R A N K            S C I N T A,    recalled as a witness,  
having been previously duly sworn, resumed the  
stand and testified further as follows:

THE COURT: You have some rebuttal?

REBUTTAL DIRECT EXAMINATION

BY MR. CUNNINGHAM:

Q            Mr. Scinta, you were previously sworn in  
this case?

A            Yes.

THE COURT: You're still under oath.

I don't swear people twice in the same case.

THE WITNESS: Thank you.

Q            Mr. Scinta, in the seven years that you've  
been with the Air Transport Association have you ever  
heard of executive tickets?

A            No, sir.

Q            Ever heard of promotional tickets?

A            No, sir.

Q            Is it permissible to sell tickets at discount  
to the public?

A            No, sir.

Q            Do you know if it's against the law to sell  
tickets at discounts?

A            That's correct.



## Scinta-direct

1  
2 Q Now, sir, do you ride on the airlines at  
3 discount?

4 A I do.

5 Q How does that come about?

6 A This is an agreement with all the airlines  
7 that they will provide the personnel of the Air Transport  
8 Association reduced rate travel at fifty percent.

9 Q How do you go about getting a fifty percent  
10 discount ticket?

11 A We are issued vouchers that reflect the  
12 routing of the ticket, the name of the employee, the  
13 ticket is then purchased at an airline ticket counter  
14 by using an air travel card, a credit card, and then the  
15 airline issues the ticket and the ticket in turn reflects  
16 in the ticket designator block, I.D., meaning fifty percent  
17 industry at fifty percent. The ticket in turn will reflect  
18 the fifty percent fare.

19 Q Sir, could you go to an airline and purchase  
20 a fifty percent industrial discount ticket for cash?

21 A No, sir.

22 Q Could you go to a travel agent and purchase  
23 a fifty percent, this industrial discount ticket for cash?

24 A No, sir.

25 Q Would a travel agent be authorized to sell

Scinta-direct

involved in the sale of air transportation.

Q Now, sir, is there any way that an airline would know whether or not the person requesting this travel was an authorized travel agent?

MR. ROSNER: Objection, your Honor, on several grounds. First of all, leading.

Second of all, it's speculative, and asks for a witness's opinion, something that obviously is not within his knowledge.

THE COURT: Overruled.

A As I indicated before, each one of these reduced-rate trips, the travel agent must submit a letter and also submit a copy of the form that they submit to us reflecting the names within the travel agencies and also a check to accompany the situation.

The ticket that they return back reflects only that \$25, if it's a \$100 ticket, and it reflects that it is an employee of an agency.

Q Would I be correct in assuming then even with these people going on their 25 percent or 75 percent discount travel, the corner of the box where it says how much they paid for it would then reflect the true price they paid for it?

A That's correct.



Howard Brunk. They have also offered some 23 or 24 exhibits, including Exhibits 1 through 5, the airline tickets in this case that Mr. Alfano was accused of possessing with knowledge at the time he possessed them that they were stolen.

From the evidence which was received before you, some of it I offered my objection on legal grounds and are of no concern of yours. There does not now seem to be any real dispute that these airline tickets, these five documents which were in fact stolen, the testimony of Mr. Georgia Feet, Mr. Zackaroff and Mr. Scinta, about the documents about which they testified, seemed reasonable to indicate that these tickets were in fact stolen.

I asked to have their testimony recalled very carefully. For you will recall that each one of them stated under oath that there was no way they could tell from the face of those tickets that they were in fact stolen.

Indeed you have to examine those tickets. I daresay you must come to the same conclusion. That this, all three of those men, Mr. Georgia Feet, Mr. Zackaroff and Mr. Scinta so testified,

AFFIDAVIT OF MAILING

STATE OF NEW YORK  
COUNTY OF KINGS  
EASTERN DISTRICT OF NEW YORK } ss  
LYDIA FERNANDEZ

being duly sworn,  
deposes and says that he is employed in the office of the United States Attorney for the Eastern District of New York.

two copies  
That on the 30th day of April 19 76 he served ~~copy~~ the within  
GOVERNMENT'S APPENDIX

by placing the same in a properly postpaid franked envelope addressed to:  
Jonathan L. Posner, Esq.  
6 E. 43rd Street  
New York, N. Y. 10017

and deponent further says that he sealed the said envelope and placed the same in the mail chute  
drop for mailing in the United States Court House, <sup>225 Cadman Plaza East</sup> ~~Washington Street~~, Borough of Brooklyn, County  
of Kings, City of New York.

*Lydia Fernandez*  
LYDIA FERNANDEZ

Sworn to before me this  
30th day of April 19 76

*Carolyn N. Johnson*  
CAROLYN N. JOHNSON  
NOTARY PUBLIC, State of New York  
No. 41-4518298  
Qualified in Queens County  
Term Expires March 30, 1977